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Fairise Odyssey (M) Sdn Bhd v Tenaga Nasional Bhd

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COURT OF APPEAL (PUTRAJAYA) — CIVIL APPEAL NO W-02(NCVC)(W)-1267–07 OF 2014
HAMID SULTAN, UMI KALTHUM AND ZALEHA YUSOF JJCA
22 MAY 2018

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Statutory Interpretation — Construction of statutes — Aids to construction — Minutes of meeting of State Executive Council — Whether wording of minutes showed state authority impliedly approved installation of power transmission lines by Tenaga Nasional Bhd ('TNB') on alienated land — Whether state authority's approval to TNB to construct substation on the land further confirmed that the implied consent was given — Whether s 12 of the Electricity Supply Act 1990 permitted implied approvals from the state authority and did not require the approval to be in writing — Whether implied approval was not vitiated by the absence of endorsement on the document of title to land about the existence of transmission lines — Whether non-objection of previous owners of the land to the existence of the transmission lines precluded latest owner from suing TNB for trespass especially after the long passage of time

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Prior to the appellant becoming the registered owner of a piece of land ('the land'), the respondent had already installed high tension power lines ('the transmission lines') on part of the land. The state authority later alienated a small strip of the land (for which a separate individual title was issued) to the respondent to construct a substation to which the transmission lines were connected to form part of an electricity grid that supplied power to residents living in the area from Gemas to Kuala Pilah in Negeri Sembilan. On finding that its qualified title to the land had no endorsement about the existence of the transmission lines, the appellant sued the respondent for trespass claiming that the transmission lines were installed without the state authority's approval. In its action, filed 19 years after the transmission lines were first installed on the land, the appellant sought a declaration that the respondent's use and/or possession of that part of the land containing the transmission lines was unlawful and that it should forthwith hand over vacant possession of the area to the appellant. The respondent denied the trespass saying that it had the implied approval of the state authority to install the transmission lines. The respondent pointed out that the state authority would not have alienated land to it for the substation if it had not approved the installation of the transmission lines because without the latter, the substation by itself served no purpose. The High Court dismissed the appellant's claim holding that the minutes of the State's Executive Council meeting showed that the state authority had by its conduct impliedly approved the installation of the transmission lines when it

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alienated land for the construction of the substation. The court also held that the absence of any endorsement on the land title about the existence of the transmission lines did not vitiate the implied consent and that as the previous owners of the land had never objected to the presence of the transmission lines, the appellant could not, especially after a lapse of 19 years, assert a claim in trespass. The instant appeal was against the High Court's decision.

Held, dismissing the appeal with costs of RM20,000:

(1) There was no appealable error in the High Court's decision and no reason to disturb its finding of fact that the state authority had implicitly vide conduct of the relevant parties approved the erection of the transmission lines on the land. The wording of the minutes of the State Executive Council meeting dated 8 August 1990 showed that it had approved the construction of the transmission lines (see paras 28–30).

(2) The High Court was correct in finding that s 12 of the Electricity Supply Act 1990 applied to this case and that it did not require the approval of the state authority to be expressed in writing and that it permitted the approval to be either express or implied (see paras 25–26).

[Bahasa Malaysia summary

Sebelum perayu menjadi pemilik berdaftar sebidang tanah ('tanah'), responden telah memasang talian kuasa tinggi ('talian transmisi') di sebahagian tanah. Pihak berkuasa negeri kemudiannya memberi milik sebahagian kecil tanah (di mana hak milik individu berasingan dikeluarkan) kepada responden untuk membina pencawang di mana talian transmisi bersambung menjadi sebahagian daripada grid elektrik yang membekalkan kuasa kepada penduduk yang tinggal di kawasan dari Gemas ke Kuala Pilah di Negeri Sembilan. Apabila mendapati bahawa hak milik berkelayakan ke atas tanah itu tidak mempunyai pengesahan tentang kewujudan talian transmisi, perayu menyaman responden untuk pencerobohan mendakwa bahawa talian transmisi dipasang tanpa kelulusan pihak berkuasa negeri. Dalam tindakannya, difailkan 19 tahun selepas talian transmisi mula dipasang di atas tanah, perayu meminta pengisytiharan bahawa kegunaan dan/atau pemilikan bahagian tanah yang mengandungi talian transmisi oleh responden adalah menyalahi undang-undang dan bahawa ia hendaklah dengan segera diserahkan pemilikan tanah kosong kepada perayu. Responden menafikan pencerobohan mengatakan bahawa ia mempunyai kelulusan tersirat pihak berkuasa negeri untuk memasang talian transmisi. Responden menegaskan bahawa pihak berkuasa negeri tidak akan memberi milik tanah kepadanya untuk pencawang jika ia tidak meluluskan pemasangan talian transmisi kerana akhirnya, pencawang itu sendiri tidak ada tujuan. Mahkamah Tinggi menolak tuntutan perayu memutuskan bahawa minit mesyuarat Majlis Eksekutif Negeri menunjukkan bahawa pihak berkuasa negeri telah dengan perlakuannya secara tersirat meluluskan pemasangan talian transmisi apabila ia memberi milik

tanah untuk pembinaan pencawang itu. Mahkamah juga memutuskan bahawa ketiadaan mana-mana pengesahan mengenai hak milik tanah tentang kewujudan talian transmisi tidak membatalkan kebenaran tersirat dan sebagai pemilik tanah sebelumnya tidak pernah membantah dengan kehadiran talian transmisi, perayu tidak boleh, terutamanya selepas luput 19 tahun, membuat tuntutan dalam pencerobohan. Rayuan ini adalah terhadap keputusan Mahkamah Tinggi.

Diputuskan, menolak rayuan dengan kos RM20,000:

(1) Tidak ada kesilapan yang boleh dirayu dalam keputusan Mahkamah Tinggi dan tidak ada sebab untuk mengganggu penemuan fakta bahawa pihak berkuasa negeri telah secara tersirat melalui perilaku pihak-pihak yang berkenaan meluluskan pembinaan talian transmisi di atas tanah. Kata-kata minit mesyuarat Majlis Eksekutif Negeri bertarikh 8 Ogos 1990 menunjukkan bahawa ia telah meluluskan pembinaan talian transmisi (lihat perenggan 28–30).

(2) Mahkamah Tinggi adalah betul dalam mendapati bahawa s 12 Akta Bekalan Elektrik 1990 terpakai bagi kes ini dan bahawa ia tidak menghendaki kelulusan pihak berkuasa negeri untuk dizahirkan secara bertulis dan bahawa ia membenarkan kelulusan sama ada dengan nyata atau tersirat (lihat perenggan 25–26).]

Notes

For a case on aids to construction, see 11(2) *Mallal's Digest* (5th Ed, 2018 Reissue) para 1904.

Cases referred to

China Airlines Ltd v Maltran Air Corp Sdn Bhd (formerly known as Maltran Air Services Corp Sdn Bhd) and another appeal [1996] 2 MLJ 517; [1996] 3 CLJ 163, FC (refd)

Government of the State of Negeri Sembilan & Anor v Yap Chong Lan & 12 Ors Lesco Development Corporation Sdn Bhd v Yap Chong Lan & 12 Ors [1984] 2 MLJ 123, FC (refd)

Multi-Purpose Bank Bhd v Diamond Agreement Sdn Bhd [2000] 5 MLJ 576, HC (refd)

PP v Datuk Haji Harun bin Haji Idris (No 2) [1977] 1 MLJ 15 (folld)

Tenaga Nasional Bhd v Majlis Daerah Hulu Terengganu [2014] 6 MLJ 800, FC (distd)

Tenaga Nasional Bhd v Ong See Teong & Anor (suing on their behalf and for all parties who are the owners or tenants of the Kampung Sungai Terentang — which was served with a notice under ss 13 and 16 of the Electricity Supply Act 1990) [2010] 2 MLJ 155, FC (refd)

Legislation referred to

Constitution of Negeri Sembilan 1959 art XXXV
Electricity Act 1949 (repealed by the Electricity Supply Act 1990) s 52
Electrity Supply Act 1990 ss 12, 56(1)
Interpretation Acts 1948 and 1967 s 3, Part I
Local Government Act 1976 ss 137, 141
National Land Code ss 5, 12, 13, 15

Appeal from: Writ of Summons 22NCVC-496 of 2011 (High Court, Kuala Lumpur)

Bee Chan (Chin Yu Yen with him) (Shyong Wee & Danny) for the appellant.
Alvin John (Steven Thiru, B Thinagaran and Gregory Das with him) (Alvin John & Partners) for the respondent.

Umi Kalthum JCA:

INTRODUCTION

[1] This was an appeal against the decision of the learned judicial commissioner ('JC') who dismissed the appellant's/plaintiff's claim with costs of RM30,000.

[2] We heard the appeal and had unanimously dismissed it with costs of RM20,000 and ordered the deposit to be refunded. We now give our reasons for doing so.

[3] For ease of reference, we will refer the parties as they were in the court below.

BACKGROUND FACTS

[4] The background facts are as laid out by the learned JC in her grounds of judgment and we reproduce them here with such modifications as are necessary.

[5] The plaintiff's claim was in respect of a piece of land described as HS(D) No 10045, PT No 3980, Mukim Gemas, District of Tampin, Negeri Sembilan, measuring about 144.272 hectares ('land'). It was originally state land. In the 1980's the State Government of Negeri Sembilan decided to develop the land into an industrial zone. It approved the alienation of the land to Metro Angkasa Sdn Bhd ('Metro Angkasa') in 1990. The alienation was cancelled in 1992 when Metro Angkasa failed to pay the land premium within the stipulated period.

[6] In 1992, the defendant engaged HG Power Transmission Sdn Bhd ('HG Power') for the construction, installation and laying of high tension power transmission lines ('transmission lines') on the land. The works were completed sometime in November 1994. A

[7] In the meantime, Metro Angkasa successfully appealed against the cancellation of the sale of the land to it. On 22 October 1993, the land was alienated to Metro Angkasa. B

[8] Sometime in March 1996, Metro Angkasa charged the land as security to Southern Bank for banking facilities granted to it. The land was foreclosed when Metro Angkasa defaulted in its monthly payments and was sold to CIMB Bank Bhd ('CIMB') on 2 August 2006. On 11 January 2010, CIMB entered into a sale and purchase agreement to sell the land to Elitprop Sdn Bhd ('Elitprop') on a 'as is where is basis'. At the request of Elitprop, CIMB transferred the land to the plaintiff, its nominee, vide an agreement dated 1 November 2010. C D

[9] On 30 December 2010, the plaintiff, being the registered proprietor of the land, objected to the existence of the transmission lines which occupied about 5.4643 hectares of the land ('disputed area'). There is no endorsement on the document of title to show any encumbrance or the existence of the transmission lines on the land. E

[10] It is not disputed that on 25 August 1992, a separate individual title was issued and registered in the defendant's name for a strip of land known as HS(M) 1561, PT No 3926, Mukim Gemas, Negeri Sembilan, measuring 2.2356 hectares. That strip of land had originally been part of the land until it was carved out by the state authority and given to the defendant for the construction of a power substation ('TNB substation'). The transmission lines are connected to the TNB substation and form part of the electricity grid that supplies power to residents living in the area from Gemas to Kuala Pilah. F G

[11] On 30 May 2011, the plaintiff filed this action against the defendant alleging continuing trespass. The plaintiff alleged that the transmission lines had been erected on the land without the approval of the state authority. H

[12] The plaintiff therefore sought in the main the following reliefs: I

(a) a declaration that the use and/or possession of the disputed area by the defendant is unlawful and void ab initio;

(b) damages to be assessed and paid by the defendant to the plaintiff in respect of the loss of the disputed area by reason of paras 11 and 12 of the statement of claim;

A (c) damages for trespass over the disputed area;

(d) aggravated and exemplary damages; and

(e) an order that the defendant shall deliver vacant possession of the disputed area to the plaintiff within seven days from the date of the order.

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[13] It was contended by the plaintiff that the transmission lines constituted a continuing trespass to the land because it had been erected without the approval of the state authority.

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[14] The defendant had denied trespass and averred that it had the approval of the state authority to do so. The defendant relied on implied approval. The defendant submitted that it was improbable that the state authority would have alienated the land for the construction of the TNB substation if it had not D approved the erection of the transmission lines on the land. A substation served no purpose unless it was connected to the electricity grid by the transmission lines. So therefore the state authority had implicitly given its approval for the erection of the transmission lines when it approved the construction of the TNB substation.

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AT THE HIGH COURT

[15] There was only one issue before the learned JC for her determination, which was:

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> whether the State Authority had given their approval to the Defendant to construct, install and lay a 132 KV transmission lines over the Plaintiff's land which at the material time was State owned land involving approximately 5.4643 hectares (the Disputed Area) out of the total of 144.272 hectares alienated, and if in the affirmative whether such approval binds all parties who have taken ownership of the G Land including the Plaintiff?

[16] Before answering the agreed issue, the learned JC considered two sub-issues raised by the plaintiff, they were:

H (a) whether the approval for the defendant to construct the transmission lines must be in writing? and

(b) whether the approval must be given by the State executive Committee?

Whether approval must be in writing?

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[17] As there was a dispute between the parties as to whether the Electrity Supply Act 1990 ('the 1990 Act') or its precursor Electricity Act 1949 ('the 1949 Act') was applicable to the present case, it is convenient to reproduce the relevant section of the said Acts, that is, s 52 of the 1949 Act and s 12 of the

1990 Act as follows:

1949 Act:

> 52 For the purpose of constructing a supply line for any Board installation, the Chairman or any person authorized by him in that behalf may, at all reasonable times, enter upon any State land and may, *subject to the approval of the State Authority*, erect in or upon that State land such posts and other apparatus as may be necessary or proper for the purposes of the installation, and may carry out all necessary works in connection therewith, and may, in the course thereof, fell or lop trees, remove vegetation and do all other things necessary to the said purposes:
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> Provided that —
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> (a) when any such work interferes with improvements, buildings, growing trees or crops, the Board shall pay compensation in accordance with section 58 for disturbance or damage; and
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> (b) where the land is occupied under a licence for temporary occupation, the compensation shall be paid to the occupant under the licence, and where the land is occupied under an approved application, such compensation shall be paid to the applicant recorded in the roll of approved applications, by whatever name such roll is called in the State wherein the land is situate.

1990 Act:

> 12 Supply lines and other equipment on State land
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> (1) *Subject to the approval of the State Authority and to such conditions as the State Authority may deem proper*, a licence may extend to authorizing the licensee to lay, place or carry on, under or over State land, to the extent and in the manner specified in the licence, such supply lines and to erect and maintain in or upon State land such posts and other equipment as may in the opinion of the Commission be necessary or proper for the purposes of the licensed installation, and subject always to the approval of the State Authority, the said authorization may be given or added to at any time during the currency of the licence by endorsement thereon under the seal of the Director General.
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> (2) All equipment placed in or upon State land which is not removed therefrom within six months, or such longer period as the State Government may permit, after the expiration or early determination of the licence under the authority whereof of the same was so placed, shall vest in and become the property of the Government of the State wherein the same is situated. (Emphasis added.)

[18] The learned JC was of the view that the 1990 Act was applicable to the present case as the erection of the transmission lines had commenced in 1992. In any case, she found that whether it was the 1949 Act or the 1990 Act, both Acts require the defendant to obtain the approval of the state authority. So the question arose whether the approval must be in writing. After referring to

several authorities (*Bennion on Statutory Interpretation* (6th Ed) s 313; *Multi-Purpose Bank Bhd v Diamond Agreement Sdn Bhd* [2000] 5 MLJ 576; *Tenaga Nasional Bhd v Ong See Teong & Anor (suing on their behalf and for all parties who are the owners or tenants of the Kampung Sungai Terentang — which was served with a notice under ss 13 and 16 of the Electricity Supply Act 1990)* [2010] 2 MLJ 155), the learned JC found that both s 52 of the 1949 Act and s 12 of the 1990 Act did not require the approval of the state authority to be expressly in writing. Therefore the statutory language must be read in its plain and ordinary context, which is, both provisions permit express and implied approval of the state authority.

Whether approval must be given by the State Executive Committee?

[19] Since both s 52 of the 1949 Act and s 12 of the 1990 Act refer to the term 'State Authority', the plaintiff argued that it referred to the State Executive Committee based on the articles in the laws of the Constitution of Negeri Sembilan 1959 ('Negeri Sembilan State Constitution') and s 3 of the Part I of the Interpretation Acts 1948 and 1967 ('the Interpretation Acts') as well as the Federal Court case of *Public Prosecutor v Datuk Haji Harun bin Haji Idris (No 2)* [1977] 1 MLJ 15 at p 20, where it was held that:

> ... It is the Executive Council who is the executive organ of the State Authority and exercise executive functions in the name of the Ruler ...

[20] The defendant argued that, with reference to ss 5, 12, 13 and 15 of the National Land Code ('the NLC') and the Federal Court case of *Government of the State of Negeri Sembilan & Anor v Yap Chong Lan & 12 Ors Lesco Development Corporation Sdn Bhd v Yap Chong Lan & 12 Ors* [1984] 2 MLJ 123 'State Authority' refers to the State Director of Lands and Mines.

[21] After due consideration of the parties' arguments, the learned JC agreed with the submission of the plaintiff and that the approval must be given by the State Executive Committee.

[22] The learned JC then considered whether the defendant had the implicit approval of the state authority. She concluded that the evidence tendered by the defendant showed that the defendant had the approval of the state authority and that the approval bound all parties who have taken ownership of the land subsequent to its alienation to Metro Angkasa. The learned JC found that the plaintiff had failed to prove continuing trespass and proceeded to dismiss the plaintiff's claim. This what the learned JC stated, at paras 40–43 of her grounds of judgment:

> 40. I now come to the critical issue in this case, to wit, did TNB have the implicit approval of the State Authority to erect the transmission lines on the land.

41. The State Executive Committee minutes of 8 August 1990 clearly demonstrates that the State Authority was aware of TNB's plan to erect a transmission line which would run from Kuala Pilah to Gemas. The minutes further show that it was for this specific reason that the State Authority had alienated land to TNB for the construction of a TNB substation on the land. A substation without a transmission line would serve no purpose. It is the transmission line, that connects the electricity system from Kuala Pilah to Gemas. It facilitates the transfer of power to consumers from the power stations and substations. For these reasons, it appears to me that that the State Authority not only did not object but approved the construction of the transmission lines. In my view, by their conduct, the State Authority had implicitly approved the erection of the transmission line on the land. In this regard, I refer to the Kertas Kerja attached to the minutes of the State Executive Committee meeting dated 8 August 1990 ('kertas mesyuarat bil 1168/90'). It read in part as below:

Tujuan

Tujuan kertas kerja ini adalah untuk mendapatkan pertimbangan Majlis Mesyuarat Kerajaan Negeri terhadap:

i. Permohonan dari Syarikat Angkasa Sdn Bhd untuk memiliki dan memajukan tanah kerajaan seluar 400 ekar di Mukim Kuala Gemas, Daerah Kecil Gemas sebagai kawasan perusahaan;

ii. ...

Latar belakang

Kawasan yang dipohon merupakan tanah kerajaan seluas 400 ekar terletak di Mukim Kuala Gemas daerah kecil Gemas. Kawasan ini terletak 23 km di utara Pekan Gemas berhampiran dengan Sungai Gemas dan bersempadan dengan daerah Segamat di Negeri Johor di sebelah selatannya. ...

Kemudahan Infrastruktur

Dari segi kemudahan infrastruktur beberapa program pembangunan telah dirancangkan oleh Jabatan-jabatan/Agensi yang terlibat.

Bekalan Elektrik

Pihak LLN telah merancang untuk membina 2 buah Pencawang Masuk Utama (PMU) dikawasan dengan keupayaan 2 x 30 MVA. Projek ini akan dibuat melalui projek pemasangan kabel LLN dari Segamat ke Kuala Pilah yang melalui kawasan Gemas. Sebuah tapak pencawang seluas 4 ekar telah diluluskan oleh Pentadbir Tanah Daerah Kecil Gemas bagi keperluan ini, berdasarkan dengan kawasan tanah yang dimohon. (Emphasis added.)

42. In my judgment, the absence of any endorsement on the register of title, does not vitiate the implied consent given to TNB. I accept the evidence of Khairil that the existence of the transmission lines is not endorsed on the register document of title as no survey has been done as the land is still held under a qualified title. It would be endorsed on the final title only after a survey is done.

43. On the evidence, it is clear that since 1992, the transmission line has been on the subject land. There is no evidence that any of the original owners had ever objected

A to the presence of the transmission line. Where there is a lengthy period during which materials remain on the land without objection or without a request for those materials to be removed, the law does not permit a landowner to assert a claim in trespass. In the instant case, there is no evidence that either the State Authority or Metro Angkasa or CIMB had protested about the transmission line ...

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[23] Not happy with the learned JC's decision to dismiss the plaintiff's claim, the plaintiff now appealed to us.

THE APPEAL

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[24] Before us, the plaintiff only raised one issue, that is, whether the state authority had given its approval to the defendant, whether under s 52 of the 1949 Act or s 12 of the 1990 Act.

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[25] At the outset, we found that the learned JC's finding that the provisions of 1990 Act applied to this case was correct as the erection of the transmission lines had commenced in 1992. The 1990 Act came into force on the 1 September 1990 (see PU(B) 494/1990). Section 56(1) of the 1990 Act E provides that 'The Electricity Act 1949 and the Electrical Inspectorate Act 1983 are hereby repealed'. So on 1 September 1990, the 1949 Act was repealed. Our focus will therefore be on the provisions of s 12 of the 1990 Act.

[26] We agreed with the learned JC's finding that based on the authorities F cited by her (see para 18 above), s 12 of the 1990 Act did not require the approval of the state authority to be expressly in writing. As per Zulkefli CJ (Malaya) (as he then was) (delivering the judgment of the Federal Court) in *Tenaga Nasional Bhd v Majlis Daerah Hulu Terengganu* [2014] 6 MLJ 800 at p 809, para 16:

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> ... It is a principle of interpretation of statute that the words used in a section must be given their plain grammatical meaning ...

We also agreed with the learned JC's finding that s 12 of the 1990 Act permits H the express or implied approval of the state authority.

[27] With regards to the issue of which person or body of persons who actually represents the 'State Authority', we again agreed with the learned JC's reference to the Negeri Sembilan State Constitution, s 3 of Part I of the I Interpretation Acts and the case of *Public Prosecutor v Haji Harun Haji Idris* for this determination with one correction. That is, we found that instead of referring to the 'State Executive *Committee*' as being the body of person exercising the executive functions in the name of the Ruler, it should have been reference to the 'State Executive *Council*'. See art XXXV of the Negeri

Sembilan State Constitution which provides as follows:

EXECUTIVE

XXXV

(1) The executive authority of the State shall be vested in the Ruler and exercisable, unless otherwise provided by the Federal Constitution or this Constitution, by his Highness or by the *State Executive Council* or any member of the State Executive Council, authorised by the State Executive Council, but executive functions may by law be conferred on other persons or authorities.

(2) All executive authority of the State shall be expressed to be taken in the name of the Ruler. (Emphasis added.)

In fact, when the learned JC made reference to the 'State Executive *Committee*' minutes of 8 August 1990, she was actually making reference to the 'State Executive *Council*' minutes.

[28] As for the learned JC's finding of fact that the state authority had implicitly vide conduct of the relevant parties approved the erection of the transmission lines on the Land, we saw no reason to disturb her finding (see para 22 above). It is trite law that an appellate court should be slow in disturbing the finding of facts by the trial court and we did not see the necessity to do so (see *China Airlines Ltd v Maltran Air Corp Sdn Bhd (formerly known as Maltran Air Services Corp Sdn Bhd) and another appeal* [1996] 2 MLJ 517; [1996] 3 CLJ 163).

[29] The plaintiff's counsel drew our attention on the Federal Court decision of *Tenaga Nasional Bhd v Majlis Daerah Hulu Terengganu* ('the *Majlis* case') in particular para 14, on the need to furnish any credible evidence such as the extract copy of the decision of the Majlis Mesyuarat Kerajaan Negeri Terengganu ('the state authority') and its *gazette* notification to support the Majlis Daerah Hulu Terengganu's contention that the 1999 valuation list had been extended by the state authority. We were of the view that the *Majlis* case was not relevant for the purpose of construing s 12 of the 1990 Act as the *Majlis* case was centred on the interpretation of ss 137 and 141 of the Local Government Act 1976 relating to rates and assessment thereof, which obviously were not in issue in our case. In any event, in our case, the minutes of the State Executive Council dated 8 August 1990 referred to by the learned JC served the purpose of showing the state authority's approval of the construction of the transmission lines. If the state authority did not approve the construction of the transmission lines, it would not be possible for the said minutes of the State Executive Council to be so worded.

A CONCLUSION

[30] Based on the above reasons, we did not find any appealable error in the learned JC's decision, taking into consideration the facts of the case and the conduct of parties. We unanimously dismissed the plaintiff's/appellant's appeal with cost of RM20,000 and ordered the deposit be refunded.

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Appeal dismissed with costs of RM20,000.

Reported by Ashok Kumar

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